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6 Attorney for Bank of America, N.A. as
servicer for The Bank of New York Mellon
7 FKA The Bank of New York as Trustee for
the Benefit of the Certificate Holders of the
8 CWALT Inc. Alter-native Loan Trust 2005-
9 59, Mortgage Pass-Through Certificates,
Series 2005-59
10

11 **UNITED STATES BANKRUPTCY COURT**
12 **WESTERN DISTRICT OF WASHINGTON, TACOMA DIVISION**

13 In re:

14 LAURA JO BURNS,

15
16 Debtor.
17

Bankruptcy Case No. 19-43650-BDL

Chapter 13

**OBJECTION TO CONFIRMATION OF
CHAPTER 13 PLAN**

HEARING DATE:

DATE: January 15, 2020

TIME: 1:30 PM

CTRM: I

PLACE: 1717 Pacific Avenue
Tacoma, WA 98402

24 **TO THE HONORABLE BRIAN D LYNCH, UNITED STATES BANKRUPTCY COURT**
25 **JUDGE, THE CHAPTER 13 TRUSTEE, THE DEBTOR, AND THE DEBTOR'S COUNSEL:**

26 Bank of America, N.A. as servicer for The Bank of New York Mellon FKA The Bank of
27 New York as Trustee for the Benefit of the Certificate Holders of the CWALT Inc. Alter-native
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1 Loan Trust 2005-59, Mortgage Pass-Through Certificates, Series 2005-59 (“BONY”), the holder of
2 a secured claim recorded against property in which the Debtor claims an interest, hereby objects
3 to confirmation of the Debtor’s Chapter 13 Plan (“Plan”).

4 BONY is the holder of a claim secured only by a security interest in the real property
5 commonly known as 5316 Northeast Johnson Point Road, Olympia, Washington 98516
6 (“Property”), which is the Debtor’s principal residence. The total amount due and owing under the
7 Promissory Note is approximately \$169,562.37 and the pre-petition arrears owed total approximately
8 \$1,041.28.

9 Section 1322(b) of the United States Bankruptcy Code provides, in relevant part, as follows:

10 (b) Subject to subsections (a) and (c) of this section, the plan may--

11 . . .

12 (2) modify the rights of holders of secured claims, other than a claim secured only
13 by a security interest in real property that is the Debtor’s principal residence

14 . . .

15 (5) notwithstanding paragraph (2) of this subsection, provide for the curing of
16 any default within a reasonable time and maintenance of payments while the case
17 is pending on any unsecured claim or secured claim on which the last payment is
18 due after the date on which the final payment under the plan is due; . . .

19 The Debtor’s Plan does not provide for the cure of the pre-petition arrears due and owing to
20 BONY. The total amount of pre-petition arrears due and owing to BONY total approximately
21 \$1,041.28. Thus, the Plan fails to comply with § 1322(b)(2), § 1322(b)(5) and § 1325.

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1 Based upon the foregoing, BONY respectfully requests that the Court deny confirmation of
2 the Plan or, in the alternative, order that the Plan be amended to provide for the full payment of
3 BONY's pre-petition arrears.

4 DATED: November 25, 2019

Respectfully Submitted,
MALCOLM ♦ CISNEROS, A Law Corporation

/s/ Nathan F. Smith

NATHAN F. SMITH, WSBA #43160

7 Attorney for Bank of America, N.A. as servicer
8 for The Bank of New York Mellon FKA The
9 Bank of New York as Trustee for the Benefit
10 of the Certificate Holders of the CWALT Inc.
Alter-native Loan Trust 2005-59, Mortgage
Pass-Through Certificates, Series 2005-59

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PROOF OF SERVICE

STATE OF CALIFORNIA

ss.

COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of eighteen and not a party to the within action; my business address is: 2112 Business Center Drive, Second Floor, Irvine, CA 92612.

On November 25, 2019, I served the following document described as **OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN** on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail at Irvine, California (**and via telecopy or overnight mail where indicated**), addressed as follows:

DEBTOR

Laura Jo Burns
5316 Johnson Pt Rd NE
Olympia, WA 98516

DEBTOR'S ATTORNEY

Ellen Ann Brown
744 S Fawcett Ave
Tacoma, WA 98402

CHAPTER 13 TRUSTEE

Michael G. Malaier
2122 Commerce Street
Tacoma, WA 98402

U.S. TRUSTEE

United States Trustee
700 Stewart St Ste 5103
Seattle, WA 98101

I declare under penalty of perjury that the foregoing is true and correct.
Executed on November 25, 2019 at Irvine, California.

/s/ Kelli Brown
Kelli Brown